



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Equalities, Human Rights and Civil Justice Committee

**Tuesday 25 April 2023**

**Session 6**



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**Tuesday 25 April 2023**

**CONTENTS**

	<b>Col.</b>
<b>CONVENER</b> .....	1
<b>DECISION ON TAKING BUSINESS IN PRIVATE</b> .....	2
<b>ASYLUM SEEKERS IN SCOTLAND</b> .....	3

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**EQUALITIES, HUMAN RIGHTS AND CIVIL JUSTICE COMMITTEE**  
**9<sup>th</sup> Meeting 2023, Session 6**

**CONVENER**

\*Kaukab Stewart (Glasgow Kelvin) (SNP)

**DEPUTY CONVENER**

\*Maggie Chapman (North East Scotland) (Green)

**COMMITTEE MEMBERS**

\*Karen Adam (Banffshire and Buchan Coast) (SNP)

\*Pam Duncan-Glancy (Glasgow) (Lab)

\*Pam Gosal (West Scotland) (Con)

\*Rachael Hamilton (Etrick, Roxburgh and Berwickshire) (Con)

\*Fulton MacGregor (Coatbridge and Chryston) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Phil Arnold (British Red Cross)

Annika Joy (Simon Community Scotland)

Graham O'Neill (Scottish Refugee Council)

Andy Sirel (JustRight Scotland)

**LOCATION**

The James Clerk Maxwell Room (CR4)



**Scottish Parliament**  
**Equalities, Human Rights and**  
**Civil Justice Committee**

*Tuesday 25 April 2023*

*[The Convener opened the meeting at 10:04]*

**Convener**

**The Deputy Convener (Maggie Chapman):**

Good morning, everyone, and welcome to the ninth meeting in 2023 of the Equalities, Human Rights and Civil Justice Committee. We have no apologies today, but we know that Rachael Hamilton is running a wee bit late and will join us as soon as she can.

Members will be aware that Joe FitzPatrick has resigned as convener of the committee following his appointment as Minister for Local Government Empowerment and Planning. For that reason, I will chair this part of the meeting in my capacity as deputy convener. I would like to put on record the committee's thanks to Joe for his work and congratulations on his new role—we wish him well.

Under agenda item 1, the committee is invited to choose a new convener. The Parliament has agreed that only members of the Scottish National Party are eligible for nomination as convener of the Equalities, Human Rights and Civil Justice Committee. Do we have any nominations for convener?

**Karen Adam (Banffshire and Buchan Coast) (SNP):** I nominate Kaukab Stewart.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** I second that.

*Kaukab Stewart was chosen as convener.*

**The Deputy Convener:** Congratulations, Kaukab. I now hand over to you to chair the rest of the meeting.

**The Convener (Kaukab Stewart):** Thank you very much, Maggie and everyone. I am sure that people will bear with me as I take on the role of committee convener for the first time. I also thank Joe FitzPatrick for all the work that he did and wish him well. I look forward to working with everybody.

**Decision on Taking Business in**  
**Private**

10:06

**The Convener:** Agenda item 2 is a decision on taking business in private. Does the committee agree to take in private item 4, which is consideration of today's evidence?

**Members** *indicated agreement.*

## Asylum Seekers in Scotland

10:06

**The Convener:** Agenda item 3 is an evidence-taking session with a panel of stakeholders, whom we will hear from shortly. We are joined by Philip Arnold, head of refugee support for Scotland, Wales and Northern Ireland, British Red Cross; Annika Joy, programme director, Simon Community Scotland; Graham O'Neill, policy manager, Scottish Refugee Council; and Andy Sirel—I hope that I have pronounced that correctly—legal director and partner, JustRight Scotland. You are all very welcome. I also refer members to papers 1 and 2.

I invite our witnesses to make some short opening remarks of perhaps a couple of minutes each. As members will wish to ask lots of questions so that we can get to the heart of the matter and carry out some deep scrutiny, brevity in any opening remarks would be appreciated.

I will start with Phil Arnold, please.

**Phil Arnold (British Red Cross):** Thanks very much. We are grateful for this opportunity to make some input, as this is such a critical time to be discussing the asylum system and looking at how we can stand up for the rights of and protections for people across the United Kingdom and in Scotland.

There have been a number of concerning policy developments, not least the Illegal Migration Bill, which would have a devastating impact on the lives of men, women and children seeking protection in Scotland and across the UK. However, there are opportunities to build on the work that has happened through the anti-destitution and refugee integration strategies and the learning from the Ukraine supersponsor scheme. Since the publication of “Hidden Lives—New Beginnings: Destitution, asylum and insecure immigration status in Scotland” on 22 May 2017, the British Red Cross has provided support to 130,000 people across the UK seeking asylum and protection. Approximately half of those people have required destitution support since that time, and we expect more people to become destitute.

There is a need for a stronger, more holistic humanitarian strategy for Scotland, and we also need to better consider how we enforce better accommodation in Scotland, including institutional accommodation and hotels, and ensure that public bodies are empowered to protect the rights of people, such as victims of trafficking and unaccompanied children.

**The Convener:** Thanks very much, Phil. I will go to Annika Joy next.

**Annika Joy (Simon Community Scotland):** I am programme director for Simon Community Scotland, which is a homelessness organisation, and I joined the organisation from a refugee rights background to lead work on preventing and ending destitution in Scotland.

The Simon Community provides accommodation and support to people who have been refused asylum and have no recourse to public funds, a position that is sometimes called “end of process”. That is where the Home Office believes that a person has no further right to proceed with their asylum claim and threatens them with permanent removal from the country, although it very rarely enacts that detention and removal.

In partnership with the Scottish Refugee Council, we provide the community whom we work alongside with a safe place to stay and access to legal advice and support to enable people to make a fresh claim and re-enter the asylum system. Each year, about 50 people whom the Home Office considers to be rights exhausted stay with us, and, each year, between 80 per cent and 90 per cent of them re-enter the asylum system and, ultimately, gain refugee recognition. During that time, they receive financial support from the Red Cross and other organisations. However, that small ecology exists only in Glasgow.

Our real concern is that the Illegal Migration Bill will abolish asylum in the UK and create a rough sleeping crisis. The small charities that provide support, such as the Simon Community and the Refugee Survival Trust, will be overwhelmed and unable to provide support. We are barely able to do that at existing levels, and we are concerned about the future presenting us with a much grimmer option: the exploitation of people who are not able to have the safety of third-sector support.

**The Convener:** Thank you, Annika. We will move on to Graham, please.

**Graham O'Neill (Scottish Refugee Council):** Thanks very much, convener, and congratulations on the convenership.

I want to say a heartfelt thank you to the committee for devoting time to this issue, because the inquiry is much needed and timely. As Phil Arnold and Annika Joy have alluded to, we are at a real turning point for refugee rights in the UK—indeed, a scary and dangerous turning point.

We have, as has been mentioned, the so-called Illegal Migration Bill being rammed through the UK Parliament with very little scrutiny worthy of the name. As has been said, the bill will abolish asylum for the vast majority of people who are seeking refugee protection and, in a further egregious move, will end protection for survivors of trafficked exploitation and modern slavery. To

be clear, we are talking about women who, as a result of commercial sexual exploitation, are raped daily and will, as a result of the bill, no longer be able to get any support from the UK or other parts of it, unless we stand against it. It is as brutal as that. Shame on those who are perpetrating this legislation at the UK level. That needs to be said, because this is such a profoundly worrying moment.

What is happening is a betrayal of the United Nations Convention relating to the Status of Refugees, which, we should remember, rose from the ashes of the international community's response to the Holocaust over 70 years ago. With the Illegal Migration Bill and its attempt to abolish asylum, that is all being turned away from. What I am trying to convey is the gravity of the moment. Indeed, that is one of the reasons for our being so grateful to the committee for giving us this time today. The Scottish Parliament should talk about and devote time to the issue, and it is great that you are doing so.

I do not want to say too much more, because I know that there will be plenty of time to speak during the session. Suffice it to say that we regard this Illegal Migration Bill as morally repugnant, and we also think that it will be practically unworkable. As with all deterrence-based legislation, it has zero evidence of effectiveness behind it, given that what it is all about is not why people come to seek safety. People come and seek safety in order to rebuild their lives. It is one of the most human-relatable things that we would all do: once you get out of the immediate danger, you go to a new place and try to rebuild your life there. Which of us in this room would not try to do that?

I have those moments of empathy when I speak to people who have refugee protection—that is exactly what they say and convey. There is nothing more human than that. The refugee convention has been so successful and life-saving over the years, because it exists in the real world of people having to make really difficult decisions. It is not in some dangerous fantasy world where, to be frank, this UK Government's Illegal Migration Bill is and its predecessor legislation has been. The bill acts according to how the Government thinks that people should behave as opposed to how they actually behave in moments of crisis.

Finally, we in Scotland cannot be bystanders to that legislation, because, if we are, we will unintentionally enable and facilitate its full horrors hitting not only the people in Scotland who are seeking refugee protection but those experiencing trafficked exploitation. There is an overlap between the two, so we need to have higher-level intervention in Scotland on this matter.

I reiterate what we said in a briefing that we prepared: we need a radical, humanitarian-based

strategy—one that, we hope, would be led by the First Minister—precisely because of the gravity of harm that will stem from this very dangerous Illegal Migration Bill.

10:15

**The Convener:** Thanks, Graham. Can we move on to Andy, please?

**Andy Sirel (JustRight Scotland):** Thank you, convener and committee members. I am here to provide insight into and legal analysis of the current asylum system and, most critical of all, the impact of the Illegal Migration Bill in Scotland.

After my colleagues' opening remarks, you will not be surprised to hear me say that I am not exaggerating when I describe this bill as a legal meteorite. This bill is an emergency—it demands urgent attention. It abolishes the asylum system for almost all who use it; it abolishes the trafficking support and assistance system that this Parliament put in place in 2015 for victims of trafficking in Scotland; and it provides for the indefinite detention of men, women, children, including victims of trafficking, without oversight by the courts in Scotland.

The bill makes it mandatory to remove to Albania or Rwanda everyone who enters the UK irregularly. If a person cannot be removed there—and most will not—it then demands that they and their children never obtain permission to live here and that their unborn children never obtain citizenship. People are unable to be removed and unable to live properly—it is civic purgatory. Indeed, it is hereditary civic purgatory.

We in Scotland currently struggle, as do the other parts of the UK, to prosecute and convict human traffickers and those involved in organised crime. The bill will snuff out whatever chance we have, because it punishes the victims. It is a bill that pretends to combat serious organised crime, but that is just a fantasy. As a legal practitioner on the front line working every day with women and children who are trafficked and exploited in Scotland—the individuals whom Graham O'Neill mentioned—and looking them in the eye, I can tell you that it is inevitable that the bill will increase exploitation in our communities and in your constituencies.

I look forward to answering your questions, but I would like you, throughout the evidence in today's session, to ask yourselves periodically, "Am I comfortable with this?" and "What can we do to combat it?"

**The Convener:** Thank you to the panel members for their opening remarks. As we proceed with our questioning, I will kick us off, and

I will be followed by my colleagues, who will come in with their own lines of questioning.

Colleagues, if you wish to come in with a supplementary, please indicate that to me, and I will do my best to bring you in. I also ask colleagues to direct their question at a particular panel member to start us off. If any other panel member wishes to add further information, please indicate that to me and I will bring you in. On that note, we will crack on.

I will come to Andy Sirel first. I am interested in the legislative context of asylum in the UK and how that comes together with Scotland. It would be good for us to get a bigger picture of where we sit with regard to the UK and of the effect of that context on asylum seekers and service providers in the public, private and voluntary sectors.

**Andy Sirel:** It would definitely be helpful to understand how the asylum process works right now in order to fully appreciate the changes that are coming to pass. The asylum process is governed by the 1951 refugee convention. Every person enjoys the right to claim asylum in the UK. The UK asylum system has been operating in a similar way for the past 30 years or so, and Scotland plays a vital role in that. In Glasgow, we have a Home Office department, and Glasgow has been one of what are called the dispersal cities for adult asylum seekers for a long time—at least a decade.

You asked what should happen. An individual should go through the asylum process, which should ordinarily take around six months. They will be interviewed by the Home Office in Glasgow, their claim will be measured against the criteria in the refugee convention, and they will either be refused or granted asylum in the UK.

There are hallmarks of the modern asylum system that cause some of the issues that you are seeing and that my colleagues will speak about more eloquently in terms of support. The first is that, from 2018 onwards, the Home Office effectively stopped making asylum decisions. In 2018, the backlog of asylum decisions was sitting at about 16,000. Eighty per cent of folks went through it and got their decision within six months. If you fast-forward four short years, you see that the backlog has increased by 900 per cent. It is now at 160,000, and only 6 per cent of people get their decision within six months. Average lengths are somewhere between one and three years. I am working with a young person right now in the court system who arrived as a 16-year-old child. He is now 20 and has only just got his decision. That is four years of that young person's life.

Decisions have fallen off a cliff, and the upshot is that people are not being moved on from their asylum accommodation in Glasgow. The

community-based accommodation has filled up. The hotels have been introduced and are now filling up, and we have arrived at the point where we see mass destitution and rather shambolic ideas of barges and scary ideas of detention facilities across Scotland.

It is very important for the committee to understand that the numbers have not increased to the extent that would cause the backlog; the issue is that the Home Office has stopped making decisions. Numbers have probably tripled since 2018 but, as I said, the backlog has increased tenfold. You can see from the maths that those are not aligned. That is the issue at stake here. My colleagues are far better placed than I am to comment on the impact of that on the ground in Scotland and on the difficulties with support, but that is where we are at this point.

**The Convener:** Other panel members will wish to come in on this, so I ask them to raise their hand to let me know.

Andy, you say that the Home Office has stopped making decisions. It cannot have just stopped making decisions; it must still be making decisions. Are you saying that the decisions are not being made efficiently or that the Home Office is not devoting enough time or resources to them, or is there something else?

**Andy Sirel:** The Home Office is making fewer than half the number of decisions that it used to. In the years up to 2018, about 10,000 decisions were being made a quarter, which is somewhere between 30,000 and 40,000 decisions a year. There are now 19,000 to 20,000 a year. The Home Office has halved the number of decisions that it makes—that is why the backlog keeps increasing. The decisions that come through are slower. The decisions that we are seeing are for folks who claimed asylum three or four years ago; they are not for contemporary arrivals.

That is one of the key problems. In 2013 or 2014, when I started lawyering in the sector, you would have got a decision within six months, and it was a relatively expedited process. Now I anticipate and tell my clients that they are looking at a minimum of a year, even if they are women who have experienced sexual exploitation or they are unaccompanied children—it does not matter.

**The Convener:** I am trying to get to whether it is a resourcing issue or an ideological one. The Home Office and the UK Government would say that they are investing billions of pounds in dealing with the issue, so I find it difficult to reconcile that with how the system has such a blockage and backlog. What you are saying is shocking, so I am trying to get to the heart of it. What is going on? What is the underlying issue?

**Andy Sirel:** That is a good question. Frankly, the best people for you to ask are Home Office officials or ministers. You could say that it is a resourcing issue. The Home Office has increased the number of decision makers since 2018, but the number of decisions has still gone down. Only in the past two quarters has the number started to go up again. There is a lot of resource in the Home Office; a lot of money goes around. It usually goes on unworkable hare-brained schemes such as the Rwanda scheme. If the money were invested in making the current system efficient, that would be a far better use of resource and would be far better for all the communities that you represent.

I am probably not at liberty to comment on the ideological point.

**The Convener:** Thank you. It was worth a try.

**Graham O'Neill:** Your question gets to the nub of the issue, convener. We would say that, on the spectrum of issues, it is more likely to be an ideological issue, because there has been a long-term degradation and erosion of the right to asylum for about 15 or 20 years but particularly since ex-Prime Minister Theresa May coined the term “hostile environment” as official public policy in 2012. Asylum has been one of the casualties of the hostile environment.

When you look at the value that is given to the crucial role of asylum decision makers and when you go to first principles and ask what we are asking those decision makers to do, you see that they are being asked to make a profound and life-changing decision. They bear huge responsibility and carry great risk. They do a really difficult job, but the Home Office, systemically, does not empathise with or value that.

I know people who work in the Home Office as decision makers and support professionals. I have a lot of respect for many of those individuals. That can sometimes be controversial for a refugee rights organisation to say, but it is important to say it, because they have often been put into dreadful circumstances. The attrition rate in the Home Office decision-making function is very high. About two years ago, the Independent Chief Inspector of Borders and Immigration, in his report on decision making and casework handling, found that the attrition rate over his inspection period, which was about six months, was 46 per cent. There is a reason why that happens.

The decision-maker role was then downgraded from the higher executive officer echelon in the civil service to that of executive officer. When you look at the pattern of decision making, you see that there are boosts in the number of decision makers in moments of panic, when the Home Office is reacting. The number goes back down when the heat is off the Home Office and the

Home Secretary a little. I wanted to flag up that the devaluation of the right to asylum is really perverse. The decision maker should be valued as much as a teacher or a nurse, because it is such an important job, but they are not. People are being set up to fail.

10:30

It is also important to recognise that most of the people who seek refugee protection are refugees. They come from countries such as Afghanistan, Sudan, Iran and Syria—look at Sudan and Iran at the moment, and look at Syria over the past decade, under the Assad regime. There is also Eritrea, where forced labour and slavery go on as a matter of state policy. Those people make up the bulk of those who come here to seek refugee protection.

The UK Government chooses not to facilitate safe travel. It knows that there are people in Belgium, the Netherlands and France who will come over to the UK for very relatable reasons, such as language or because they have a pal, family or cultural links here. Those people might regard—rightly, in many ways—the UK as a human rights-respecting country. However, the powerful UK state sees that and says, “No, you’re not going to come,” even though it knows that people will come through various routes, be they lorry drops or small boats. Even though the UK is such a powerful state, it says, “No, we’re not going to provide a simple step such as a safe travel visa, so that you can have your asylum claim considered.” It chooses not to do that.

We need to look at that from a power analysis perspective. The UK state is very powerful and those people are some of the most desperate in the world, but the UK state chooses to turn its back and say, “Don’t come.” We are making things so brutal in our asylum system. We are now abolishing asylum with the Illegal Migration Bill—that is what the UK is doing. However, as I said in my opening remarks, that is not the main human motivation for people to seek protection. Very few people—fewer than 1 per cent of the world’s asylum seekers—seek protection in the UK. That will not change, despite some really high-falutin’ and irresponsible remarks from the current Home Secretary.

I emphasise that, over a long time, there has been a political devaluation of the right to asylum, which is perverse. One of the forgotten casualties of that is the asylum decision maker, who has been set up to fail and has been asked by his or her bosses to do the impossible. At the end of the day, a lot of the people involved are themselves refugees. We, along with other organisations on the panel and many more, including the United Nations High Commissioner for Refugees, have

been saying to the Home Office for years, “Please introduce for nationalities with high refugee recognition rates an accelerated asylum decision-making procedure, because you know you’re not going to return people to countries such as Afghanistan and Syria. Retain your safeguards, such as appeals, but you need to have a much more efficient, responsive and realistic system.” The Home Office knows all that better than anybody else, which is why we think that what is going on is ideological. It makes a lot of people suffer when it really does not need to be like that. We have to question the political motivations for doing that and making a spectacle.

The tragedy is that a lot of people will lose their lives needlessly as a result. I am not speaking loosely: deaths in asylum accommodation have shot up in the past three years. Many of those are confirmed or likely suicides. We know that, because we have collected the data with Liberty Investigates and *The Ferret*, the investigative journalism platform. We also see the tragedy of people making more dangerous journeys, such as coming across on small boats.

**The Convener:** Thank you very much for that. I have a short time left for my questions. I ask Annika Joy and Phil Arnold whether they would like to add anything. The original question was about the legislative context so, if you want to refer to the Nationality and Borders Act 2022, now is the time to do so. We may be able to come back to it.

**Phil Arnold:** Andy Sirel and Graham O’Neill have outlined effectively how positive decisions are there to be taken and the length of time that it takes for a decision. From an operational perspective, we have seen many changes take place over quite a period. It takes support for people to go through the asylum system, to have trusting relationships and to identify the issues of vulnerability. People need to be supported along every step of the way.

At the moment, work is taking place around high recognition rates from a number of different nationalities. Those announcements have often come through with not very effective engagement with the sector as a whole. That has led to us being quite reactive in how we process things. A streamlining of the asylum process is taking place. This year, a new announcement has been made almost every two weeks, so it is very difficult to understand the extent of the changes that are taking place and to advise caseworkers how, meaningfully and effectively, they can support people through that. Not having an effective partnership route just leads to gaps.

There is a streamlining of the asylum process, and part of the issue with that is that, if people do not respond, their claims will be considered to have been withdrawn. Even where there are very

high recognition rates, we support measures to speed up the processes, but that needs to be done in an effective and humane way.

**Fulton MacGregor:** Convener, congratulations and welcome to the role.

Good morning, panel. What a hard-hitting first 30 minutes it has been—and quite rightly so. I thank all the panel members for coming here. We know that it is not easy to stand up for asylum seekers in the manner that you have. That has to be commended.

Following on from the convener’s questions and your opening statements, I want to ask about rights and entitlements. I appreciate that some of you have already touched on bits of this. For the record, what are people’s rights and entitlements in seeking asylum? How do those rights and entitlements change when people are either refused asylum or granted asylum?

I am happy to start with Annika Joy, as she did not get in last time.

**Annika Joy:** Thank you. I will speak about people who have been refused asylum. In Scotland, until very recently, that has been very much a Glasgow population. An ecology of peer and community support organisations has developed around people who have been refused asylum, and my organisation’s work is part of that ecology.

The asylum system, such as it is, is not trauma informed and, as Graham O’Neill and other colleagues have said, the decisions that are made can sometimes appear arbitrary. It can feel like quite an arbitrary refusal has happened.

The end of the process is very brutal. When a person has had a negative decision, they will have exhausted their rights to appeal, or they will have been told that they have exhausted their rights to appeal, perhaps because their opportunity timed out, they did not have a lawyer or adequate casework, or their mental health was poor and they were not able to engage with the paperwork that came. They will receive a decision from their Home Office contractor—in Glasgow, that is Mears. They will have a limited amount of time to leave their accommodation, and their very meagre asylum support allowance will cease.

At that point, there is no plan for the person. Organisations such as Safe in Scotland, Simon Community Scotland, the Refugee Survival Trust and Positive Action in Housing do their best to step in and provide what accommodation and support they can to people. That is about trying to remove the risk of re-exploitation for people.

If a person does not have the right to claim any benefits or to go to the council and say that they are homeless, what are their options? Their

options are rough sleeping; exchanging labour, including sex, for accommodation; and being exploited by people who run Deliveroo gangs and have people riding for them. Their options are very limited.

When a person is trying to survive, they have absolutely no chance of being able to re-engage with the asylum system. The Scottish Refugee Council has amazing advisers who can provide support to people but, if a person is trying to make ends meet and trying to find somewhere safe to stay every night, there is absolutely no chance that they will be able to engage properly with a fresh claim.

The really important work that happens at that stage is stepping in with holistic support and doing everything that the asylum system should have been doing. That is about providing people with a trauma-informed and person-centred approach to their needs and situation. A person will tell their story once to a caseworker, who will then advocate with them and their lawyer to ensure that, when they are ready to submit a fresh claim, it is in really good shape and the Home Office is much more likely to accept them back into the asylum system and the meagre section 4 support. To be honest, that is still a state of destitution, but it is state-funded, as opposed to state-enforced, destitution.

I will conclude with a point about our concerns. Capacity in the third sector is already very stretched. Generally speaking, it is only the third sector that can step in when people reach the end of the process. As the numbers of people who are likely to be refused or deemed inadmissible increase under the new legislation, and as the Home Office enforces dispersal on cities and towns around Scotland that have no previous experience of working with people who have been refused asylum, the risk of exploitation and high levels of rough sleeping, which disproportionately affect people of colour, people with mental ill health and people with mental illnesses, will become a Scotland-wide consideration.

The third sector is not sufficiently well resourced to step in. It causes us grave concern that we will not end homelessness and destitution in Scotland despite our best efforts to do so.

**Fulton MacGregor:** Thanks very much for that, Annika. Again, that was a very hard-hitting contribution.

That was a really good description of what happens when asylum is refused. Can any of the other panel members describe how rights and entitlements change when asylum is granted? I see Andy Sirel nodding—I will bring him in.

To bring my questions together for the other panel members, my second question is: what

impact do you think the Illegal Migration Bill might have on any of those rights when asylum is granted?

**Andy Sirel:** When a person is going through the asylum process, they live on what is called asylum support, which is provided by the Home Office—Annika Joy mentioned that. At that time, there are a few different options around Scotland. The person can be in community-based accommodation. That is what we have had for the majority of the past 10 to 15 years—flats in various parts of the city. The person is a member of the community, and they receive a stipend of £45 a week, which is £6.42 a day. Most of us have probably spent that already this morning in getting to work. If a person is in a hotel—lots of people are now in hotels throughout Scotland, from Falkirk to Aberdeen to Bathgate, and everywhere in between—and that hotel provides their meals, they receive £9.10 a week, which is £1.30 a day. Those sums are to cover all their communication, clothing and travel.

We have spoken about delays. People can exist in that state-enforced destitution for years waiting for their asylum claim. If they are refused, they lose entitlement to that altogether—I refer to Annika Joy's previous comments. If a person makes a fresh claim for asylum—that means that they have gathered new evidence that they have not presented to the Home Office before—they will receive section 4 support, which operates at around £45 a week, I think. However, this time, that is on a rechargeable card, so it is not cash based.

If a person is granted asylum, they will have full access to the employment market, access to benefits, subject to the usual eligibility criteria, and access to healthcare, social housing and all the things that we, as citizens, have access to.

The vast majority of folk, once they have crossed the initial precarity in housing through moving from asylum support to social housing—that is a real gap in Scotland—work and pay tax, and they become members of our community, so to speak. That is the way that things work at the moment.

The last point that I will make about the Illegal Migration Bill is really important. People exist in the asylum support system—whether that is in the initial system or through section 4 support—for years. They are in a hole. The thing that keeps them engaged with us and the Home Office and which causes them to report to the Home Office every couple of weeks is the possibility that they will be granted status. There is the possibility that they will be able to start their new lives. The Illegal Migration Bill will abolish the asylum system. There will be no such possibility. That ladder out of

the hole is being set on fire—it is being taken away.

What do people do then? Are they going to hang around on £45 a week for the rest of their life, or does the shadow economy—trafficking and exploitation—arise? You all know the answer to that question. That is what the bill does. It takes an existing situation and makes it infinitely worse.

10:45

**Fulton MacGregor:** Would Graham O'Neill or Phil Arnold like to add anything? As the convener said in her line of questioning, you do not have to do so.

**Graham O'Neill:** The only thing that I was going add to what Annika Joy and Andy Sirel have said is that we need to think about the resources that are currently in the UK asylum system. More specifically, I ask the committee to focus on the distribution of those resources.

The juxtaposition or contrast that I draw people's attention to is that, as Andy Sirel said, people who are in so-called contingency asylum accommodation environments—that is, ex-hotels and ex-military barracks—get £1.30 a day. Always remember that they are denied the right to work. People are desperate to work, and they are denied that right as part of the systemic denial of socioeconomic rights to people who come here and seek refugee protection. Sadly, that denial of the right to work has been around for around two decades. Think about that £1.30, and you will ask, "Okay, where is all the money that Graham speaks about going?"

Around £3 billion a year is spent on the asylum accommodation support system in the UK. About 99 per cent of that money goes very quickly from the Treasury, through the Foreign and Commonwealth Office or the Home Office, depending on the year in which it is allocated, straight into the coffers of Mears, Serco and Clearsprings Ready Homes—those are the three asylum accommodation contractors—and the network that some of those contractors have of subcontractor companies or hotels that they do deals with to put asylum seekers in.

To give members an idea of the growth of the resources, the Home Office and the Treasury agreed that the cost of asylum accommodation over the decade from 2019 to 2029 would be between £4 billion and £5.6 billion. That was the projected range. The cost is currently £3 billion a year. We estimate that 99 per cent of that goes to private companies. None of it touches local communities, local services or refugees, of course—they get £1.30 a day.

Think about £1.30 a day going to the refugee, with nothing going to the local community or services, and close to £3 billion a year going to private companies, and ask yourself the question: what is going on here? To put it bluntly, who is running the show? Is it the Home Secretary, or is it actually the chief executives of the private companies or, to be more precise, the institutional investors that fund a lot of the resources in the private companies? What is the image of the legislation that the Nationality and Borders Act 2022 instituted? It took effect only on 28 June last year. It has not even been running for a full year, and yet we have the Illegal Migration Bill on the scene.

The Nationality and Borders Act 2022 instituted accommodation-centre-based accommodation as the norm, and that was not plucked out of thin air. That is something that has been happening for at least three years across the UK. For example, in March 2020, 2,500 people were in what is called contingency accommodation, which is institutional accommodation in the form of ex-hotels; there are now more than 55,000 people in that accommodation. Andy Sirel mentioned community-based accommodation, which, in the jargon, is often called "dispersal accommodation"—flats that people are in. Around 42,000 people were in that in March 2020; the figure is now around 55,000. The number has relatively flatlined.

An old adage is "Follow the money." Where is the money going? It is going from the state to private companies, and the private companies then put that into their profits, dividends and reinvestments.

The final statistic to give members is that Clearsprings Ready Homes had three directors in 2021. It runs asylum accommodation with the Home Office, and it has a web of subcontractors. In 2021, it gave out £39 million in dividends across three directors. Think what that £39 million could have done for the people whom that is supposed to be in the name of: the refugees in the local communities.

We may come to this issue later, but I am not surprised that some local communities across the UK feel done to, because they are being done to. However, they are not being done to by refugees; they are being done to by the Home Office and private companies, which are, basically, suiting themselves. They are opening hotels, putting vulnerable people in those areas, and taking the money out of those areas and not letting the money touch those areas, where it should be a source of investment.

**The Convener:** I am mindful of the time. We have a lot of areas to cover. What you are saying is really important, but I want to bring in my

colleagues, who have questions. Are you finished, Fulton?

**Fulton MacGregor:** I am happy with that. I know that Phil Arnold wanted to come in, but maybe we could bring him in for the next answer.

**The Convener:** Yes. If we have time, I am more than happy to bring him in.

**Maggie Chapman (North East Scotland) (Green):** Good morning. I thank the witnesses for being here and for laying out so starkly what a bleak picture we have at the moment—never mind how much worse it will be with the Illegal Migration Bill.

Graham O'Neill identified two points that are worth remembering: one about following the money and one about the hostile environment, which is that we are going on a journey along an ideological trajectory that started some years ago with that hostile environment.

I am interested in exploring the current practice, particularly around hotel accommodation. You have all talked about it in slightly different ways. Phil Arnold, can you outline why so many asylum seekers are currently being accommodated in hotels? We have heard about some of the issues in that regard, such as the failure to integrate and the almost ghettoisation of asylum seekers. Can you tell us a little bit about the hotels and how they support asylum seekers?

**Phil Arnold:** I will repeat a couple of points about the asylum backlog. One issue is that there has been a huge increase in hotel use, under the provision in section 98 of the Immigration and Asylum Act 1999, rather than moving people through the system. There are reports of more than 50,000 people in hotel accommodation, and that is linked to the decision-making timescales that we have talked about. The scale of hotel use is huge. Hundreds of hotels across the country are being used.

In 2021, we released the report "Far from a home", which involved speaking to 100 people in asylum accommodation at different points and using our operational insights about some of the emerging issues from hotels. Often, we found that people did not feel safe in those situations. As Annika Joy said, effective vulnerability assessments do not necessarily take place in the asylum system. In "Far from a home", as well as in a joint report with the UNHCR, we have called for improvements in how vulnerability and screening assessments consider individual circumstances. Often, we have seen hotels being used inappropriately. A range of vulnerabilities might not be picked up on in such situations.

Between November last year and March, our crisis response teams received more than 50

requests from local authorities and national health service boards to respond to hotels. There are a lot of issues with hotel accommodation. For example, clothing is not necessarily available on arrival, so our crisis response teams had to provide clothing for 2,700 people. There were concerns about a deterioration in health and outbreaks of infectious diseases, such as scabies, that were linked to the requirements for clothing.

We talked about the issues of financial support for people in hotels and the very negative impact that such issues have on people's circumstances. In our report "Far from a home", we outline more than 400 cases, over the course of a year, in which we provided support, and those case files refer to suicide ideation among people in Home Office accommodation. Spending prolonged periods, often in rooms that might not even have windows, has a serious mental health impact. The nature of trauma can often go undisclosed for a long period. There are many reasons why people might not disclose information, and trauma can lie dormant for long periods. We have grave concerns about the use of institutional accommodation and how it might trigger past traumas in people who have experienced persecution, trauma or torture in confined spaces across the world.

I want to make a point about the difficulties. There are travel issues for people who need to access services. Doctors of the World released evidence—not from Scotland but from London—highlighting that 80 per cent of asylum seekers were not accessing primary healthcare and that 84 per cent were not getting HC2 forms to enable them to access free healthcare if they wanted it. As part of our report, we heard of people who had spoken to hotel staff about accessing GPs and had been asked to disclose what their health issues were. We also heard concerns regarding isolation.

There are a number of issues. Hotels are quite visible, and we have grave concerns about the increased visibility of hotel use. Hope not Hate has highlighted that far-right activity has taken place in at least 15 of the hotels. We provided responses from asylum seekers at the Ministry of Defence's Penally camp in Wales. We spoke to everybody on the site, and the vast majority did not feel safe. A quarter said that they had been subjected to racial abuse, had had stones thrown at them or had received death threats. When there is a high level of visibility of asylum accommodation, those risks increase exponentially.

In our joint assessment with the UNHCR—"At risk"—which was released last year, we highlighted concerns about the high visibility of hotel use. There is evidence of traffickers and of hotels being targeted and being unsafe. Therefore, we have significant concerns about the regulation

of accommodation, as we need to ensure that it is safe for people.

**Maggie Chapman:** Graham O'Neill talked about institutional accommodation. People would like to believe that hotel use is not institutionalised, but it is clear that there is, and has been for some time, institutionalised accommodation, particularly in some parts of Scotland. With hotel use becoming more widespread and hotels across the country being used—not necessarily with the right support services, as Annika Joy said—have you any confidence that the private contractors who run the hotels find out what support is available from, for example, third sector organisations? When hotels are selected, is there any community discussion about what might happen when however many asylum seekers are accommodated? What communication takes place between the local community and private contractors?

**Graham O'Neill:** Our experience is that next to nothing is done in advance of a hotel being procured by the Home Office and/or a private contractor. In previous oral evidence sessions and in written evidence to the Parliament, we described it as a *fait accompli* practice on the part of the Home Office and private contractors. The most that they will do by way of consultation is talk to the local community after the event and say, "We're here now—how can we make this work?"

In relation to one of the hotels that was procured in Scotland back in October 2021—sadly, this practice has continued across Scotland and, indeed, the rest of the UK—the contractor, which, in this case, is Mears, will, at best, set up a network or forum or, more commonly, become part of a local forum. Mears will sit around the table with well-intentioned public sector and, particularly, community sector organisations basically knocking their pan in, to use an old phrase. They will be working as hard as they can to help people in need.

11:00

About two months ago, I was talking to a local support worker from an area in Scotland. We were having a coffee one afternoon, and I asked her what she had been up to that day. She said that she had gone around Sports Direct with four guys from one of the hotels. We need to remember that these guys have nae money and are not allowed to work. Those four adult guys were getting essentials because a local football club had come forward to try to help with some community sessions. Support workers have no funding for that; they just do their very best as well-intentioned, kind people.

I keep going back to this juxtaposition: Mears, which is a company that has asylum

accommodation as just one of its contracts, made £21.6 million in profit in 2021, whereas I was listening to a shattered support worker telling a story about walking around with four adult guys who probably would have wanted to go shopping by themselves if only they had been allowed to work and have a bit of independence in their life. That is the reality; that is what is happening. It is out of order. If you were having coffee with your pal and told them that that was what was happening, they would say, "What's that all about?"

It is all about powerful institutions, be it the Home Office or private companies, doing what suits them. After they have done the *fait accompli* practice, they are quite happy to put people into a hotel, which gets a guaranteed revenue stream. As Andy Sirel, Phil Arnold, Annika Joy and I have said, we have a chronically slow asylum decision-making system. That is good business. I am not saying that the companies intend there to be a chronically slow asylum decision-making system, but I am saying that it is really good business to have a chronically slow asylum decision-making system, because the company gets one fixed price per person per night from the Home Office. How the company procures the accommodation is up to it. If it can make a cut by packing people into congregate-style accommodation, it will do that, and if it can make a cut by doing a deal with a food production company to provide people with three square meals a day, that is what it will do—and, lo and behold, that is what has been happening. The Home Office is fine about a company doing that because, in reality, the Home Office is not particularly bothered about how people are being treated.

The *fait accompli* practice is continuing across the UK. There are 55,000 people in 400 ex-hotels, and pretty much all those ex-hotels, including those in Scotland, have been procured through a *fait accompli* practice, with nothing going to local communities.

**Maggie Chapman:** I have a brief question on the community element. You mentioned food. To your knowledge, is any effort being made to produce and provide culturally sensitive food?

**Graham O'Neill:** To be fair, I am aware that such efforts have been made in Glasgow. I cannot say with as much confidence that those efforts have been replicated in other parts of the country. However, I note that those efforts were made only after people raised concerns; it was after the event. If people had not raised those concerns, I very much doubt that that would have been done. That gets to my point that the most powerful institutions, which know this population better than anybody, omit to provide people with what they know they need.

We have to ask ourselves why that is happening. Is that not a form of racism? I do not want to sound as though I am coming across too strong, but we are talking about people of colour who have very limited socioeconomic rights, have very little power and get £1.30 a day, and powerful institutions are omitting to provide stuff or, in the Home Office's case, not requiring that that stuff happens in practice. You wonder what is going on. I am not saying that people are being racist. I am saying that, in our view, it is legitimate to raise that question, because there seems to be a sin of omission, particularly on the part of the Home Office.

That has profound impacts, as Phil Arnold touched on. I am sure that every one of us will be looking forward to what we are having for our dinner tonight, but asylum seekers do not have that choice when they are stuck in those places, and, as Andy Sirel said, they are stuck in those places for years. Something scandalous is going on here.

**Maggie Chapman:** I have a final question. I am aware that, in the north-east, members of the community were banned from going into a hotel that Mears runs to provide support by talking to people and befriending them. They were banned from doing so by Mears. Do you know whether that situation is replicated elsewhere in Scotland?

**Graham O'Neill:** I have not come across evidence of banning and suchlike. You touched on befriending. We all know that befriending is so important in systems in which people do not have much social contact with others or many positive relationships. Sadly, the asylum system is one of those. A ban—especially a ban on a befriending scheme—would seem really perverse, if that is what has happened. It should not be beyond the wit of companies and the Home Office to put such a scheme in place. That kind of thing does not cost much money, but it has such value to people's mental wellbeing.

**Maggie Chapman:** It was an informal befriending scheme, not a formal one. People wanted to do that out of their own generosity, but they were blocked from going in.

**The Convener:** Pam Gosal wants to ask a short supplementary question. I am watching the time. I ask folk to keep their questions and answers focused. I am sure that other areas will be covered.

**Pam Gosal (West Scotland) (Con):** I thank the witnesses for their opening statements. Following on from the discussion about hotel usage, my question is about the source of tension in the community. It touches on what was said earlier. We all saw what happened in Erskine. When asylum seekers are in hotels, what are

organisations doing to help to integrate them into communities? What sort of work is being done? I will direct my question to Graham O'Neill, who touched on the issue, and Andy Sirel.

**Andy Sirel:** I will kick that question over to my colleagues. I do not know whether Annika Joy or Phil Arnold wants to respond, because it is more to do with the day-to-day ground support.

**Phil Arnold:** There are a couple of points to make. The length of time that is spent inside hotels is a significant issue when you think about integration practice. We hear of situations in which people are unable to concentrate, because their life is on hold, even if they have English for speakers of other languages—ESOL—practice or other opportunities to do integration-type activities in a hotel. When someone's life has been put on hold and they are still concerned about their family and about living on £9 a day, and when they cannot access health services and all that kind of stuff, that can have a fundamental impact on their ability to take up any wider integration activities.

Moreover, the very nature of hotel accommodation means that it is not community-based accommodation from an integration perspective. If integration takes place from day 1—I recognise the point that has been made about social connections inside hotels—the visibility of larger institutional accommodation creates additional risks, compared with community-based accommodation. As I mentioned, there is a risk of traffickers and a risk of exploitation taking place. Additional safeguards are needed where institutional accommodation is used. Some of the integration practice can be undermined unless that is also considered effectively. The nature of institutional accommodation does not necessarily effectively support integration taking place from day 1.

**Pam Gosal:** Are you saying that there is nothing in place? We have seen what happened in Erskine. Have third sector organisations or organisations such as those that are represented here today put nothing in place because it does not work? Is that what you are saying?

**Phil Arnold:** No. The picture is quite mixed. I am not able to advise specifically on the Erskine situation, but I can check that and come back to you. I am just speaking from a general perspective.

**The Convener:** I will bring in Rachael Hamilton—your line of questioning might work here.

**Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con):** I am sorry—I had issues with the traffic earlier. I have some questions on the Ukraine supersponsor scheme. It might work

to ask them as part of the discussion on the new Scots strategy.

**The Convener:** In that case, we will go back to Pam Gosal.

**Pam Gosal:** Earlier, mention was made of the third sector not being funded properly. What kind of resources need to be in place and distributed so that the third sector can be ready to deal with asylum seekers coming here and to help with integration and everything else that we have spoken about? What sort of plan or framework should be in place to support the third sector? That question is for Annika Joy, because she spoke about the third sector.

**Annika Joy:** In 2021, the Scottish Government published a strategy for ending destitution, which was well thought out and well considered and peer researched. It has action points on all the harms that people face in the asylum system and at the end of the process, and it takes account of the people who arrive irregularly or are documented irregularly. The plan is there, and it includes actions on providing accommodation, access to travel, access to education and support, and the provision of legal advice and casework.

My personal observation is that the implementation of that strategy is constrained by funding. It is not constrained by the good will of the public sector or the third sector, which can play their part, but it is constrained by a lack of available funding to fully implement that strategy across a country that has increasing numbers of people who have been forced into destitution by the asylum system and irregular documentation.

**Pam Gosal:** Does anybody else want to answer that question?

**Graham O'Neill:** Following on from what Annika Joy said—I hope that the committee can consider this recommendation—we want the system, including the Home Office system and the Scottish Government system, to involve the third sector in the development of policy and of funding mechanisms from the inception. That will be needed more than ever if the provisions of the Illegal Migration Bill are, as we expect, brought into effect as soon as mid-July. That will have a foreseeable consequence of destitution, and, as others have said, it will increase the chances of organised crime exploitation taking root among a wider population who would otherwise have been in the asylum system but will not be because asylum is, in effect, being abolished for them.

The role of the third sector will be pivotal. When I used the jargon about a new, radical humanitarian-based strategy, what I was trying to get at was that successive pieces of legislation, particularly the Illegal Migration Bill, are, in effect, closing off protection routes and pushing people to

the most dangerous margins of society, where they will be met by people who are minded to exploit them. In my experience, the public sector, except in emergency situations, will not be there systematically, day in, day out, but the third sector will be, because that is part of what it is there to do. We need to take the part of the third sector that deals with refugees and trafficking extremely seriously from now on when it comes to the inception not just of policy but of funding mechanisms, because people need to have accessible, trauma-informed organisations that they can access so that they at least have a chance of being safe in Scotland.

The other thing to mention in that vein is that we need Scottish public sector bodies that have experience of and are in contact with people in crisis situations—I am thinking of the police, in particular, and, to a lesser extent, the Crown Office and the health service—to really understand what the Illegal Migration Bill will do. It is imminent—as I said, it will become an act in mid-July—and will have retrospective effect, which means that anybody who has come in since 7 March by what the Home Officer deems as “irregular means” has a marker over their head, whereby any rights that they enjoy between now and the bill’s becoming an act in mid-July are no more than a temporary reprieve. Those rights to support will be swept away from them.

11:15

I am simply trying to paint a picture of the at-scale increases in destitution and risks of exploitation that, sadly, are imminent. We need the public sector to be on it and not just to pass people over to the Home Office—I am thinking of Police Scotland here—but to find other, more person-centred ways to inquire about somebody’s immigration status. That could be done through a lawyer or a trusted non-governmental organisation. Under the Illegal Migration Bill, which will soon become an act, as soon as people touch the Home Office system, they will have no rights.

**Pam Gosal:** Shall I ask my final question?

**The Convener:** Yes. I am just looking at the time. Officially, we have 15 minutes left. I again plead for succinct answers. That would be extremely helpful. I am not looking at anyone in particular, Mr O'Neill. [*Laughter.*] That is not to in any way undermine the valuable contribution that you are making, by the way.

After a small question from Pam Gosal, we will move on to Pam Duncan-Glancy.

**Pam Gosal:** Some of this has been mentioned, but it is very important that we look at what the Scottish Government is doing as well, which is why I want to focus on this question.

Many of the challenges that we have talked about concerning the placement of refugees and asylum seekers are a result of accommodation and housing shortages. For example, there are around 14,000 households living in temporary accommodation, the number of homelessness applications is the highest since records began and the Scottish Government failed to meet its affordable home targets in the previous parliamentary session. What changes should be made by the Scottish Government to improve the situation? What can Scotland learn from other places that you know of?

**Annika Joy:** This does not relate to housing, but I want to speak about access to travel for asylum seekers in Scotland. I believe that it is in the gift of the Scottish Government and the Scottish Parliament to make this happen. Together with colleagues at Maryhill Integration Network and other peer-led organisations, we hope that the Scottish Government will take the decision to make access to free public transport available to asylum seekers in Scotland. That would make the £1.10 a day go a whole lot further and make it much more likely that people will access healthcare or see their lawyer.

**Pam Gosal:** Phil, is there anything that you would like to quickly add?

**Phil Arnold:** I totally support the call relating to travel.

Discussions are taking place across Scotland about expanding dispersal. I make the point that a funding strategy to go alongside that dispersal needs to be considered.

My other point is about the impact of the Illegal Migration Bill. We would support the carrying out of some scenario planning to understand in more detail what impact that bill will have across Scotland. That would give us a better understanding of how to respond and the types of support that will be needed.

I also want to highlight the exceptional work that JustRight Scotland has been doing. During this period of change, when so many legal changes are taking place, it is absolutely imperative that people understand the impact. With the expansion of dispersal across Scotland, it is absolutely essential, when so many changes are taking place, that people can get their rights through legal support. That requires that public services also understand those legal implications.

**Pam Gosal:** Andy wants to say something. You had better say it in a sentence, otherwise the convener—

**Andy Sirel:** Lawyers are very good at being brief. I will be 30 seconds. This point ties together all the things that we have been speaking about.

A well-supported third sector is absolutely essential. A well-supported statutory sector is also absolutely essential because, when the latter falls down, the third sector has to move in to provide the support. My organisation is making plans to go into the hotels and is trying to send advice and information around as much as it can. We see a really difficult situation where the local authorities are blindsided and do not have the resource to respond to what happens when hotels pop up in their areas.

There are unaccompanied children in the hotels. The Helen Bamber Foundation has just released a report that says that of the 1,386 referrals made to local authorities in relation to potential children, 867 were accepted as children. That means that two thirds of the kids who were referred were accepted as children. Under the Illegal Migration Bill, that would be too late; they would be gone. Those are kids who are dispersed as adults by the Home Office.

The point about bolstering the statutory sector is an important one. Glasgow City Council, I am afraid to say, has an unaccompanied minors hotel. That is just something that we have now. I am working with the social worker who has been allocated for that hotel. That is not a normal situation. It was not that way before. Those poor social workers, whom I work with every day, are absolutely on their knees. This is a point that segues into the discussions around the bill and the removal of support for trafficking survivors, because the same problems will be replicated there.

**The Convener:** I will bring in Pam Duncan-Glancy.

**Pam Duncan-Glancy (Glasgow) (Lab):** Thank you, convener, and congratulations on your election as convener of the committee.

Good morning, panel. Thank you for sharing your evidence so far. It is grim, and I am really angry. I cannot believe that we are where we are. I agree whole-heartedly with the panel that this is an emergency and a human rights catastrophe and that it represents an end to our standing in the world as a place of protection for refugees, by breaching the UK's obligations in the 1951 refugee convention and the European convention on human rights.

I agree that the Illegal Migration Bill would run a coach and horses through the protections passed by the Scottish Parliament on human trafficking. It is a trafficker's charter and will end up with children being locked up, as we just heard from Andy Sirel. It is not just a sickening and draconian response to the arrival of small boats in the Channel but an assault on Scottish Parliament legislation—another one by this Tory Government.

It threatens to undermine the human rights of vulnerable people so, yes, I am raging.

I am proud that UK Labour voted against the bill in the Commons; we will do the same here—we will vote to withhold legislative consent for the bill. I agree with many who have briefed us today, including the Children and Young People's Commissioner Scotland, that it is incumbent on the Scottish Government and public authorities here to act in compliance with their human rights duties to mitigate, wherever possible, the harms caused by the bill. It is in that vein that I will approach my questions, which are short.

My first question is about the powers that the Scottish Parliament has in the Human Trafficking and Exploitation (Scotland) Act 2015. Andy, you touched on some of this a moment ago. Has the Scottish Government done enough with the powers that it has in that act? What more might it need to do as a result of the impending disastrous legislation?

**Andy Sirel:** That is a very good question. Support for adult victims of trafficking is provided through the Human Trafficking and Exploitation (Scotland) Act 2015. It is provided mandatorily for 90 days, once someone has received a decision from the Home Office that they could be a victim of trafficking. The Scottish Government provides support beyond the 90 days for other groups, which is provided primarily through Migrant Help and TARA, the Trafficking Awareness Raising Alliance. They provide safe houses and offer additional stipends. The system is not perfect, but it works well—it is better than that which is provided in England. The mandatory period during which support is provided is 90 days, as opposed to 30 days in England. The Illegal Migration Bill strips the Scottish Government's power to provide that support.

The 2015 act is about Scotland discharging its obligations under article 4 of the European convention on human rights and article 12 of the European convention against trafficking. It will be prevented from doing so by the bill. This is a constitutional quagmire for the Scottish Government, because the Scotland Act 1998 prevents the Scottish ministers from acting in contravention of the European convention on human rights, but the Illegal Migration Bill would compel them to do so. This is a situation in which victim-centred support in a devolved area, which has been provided for the past eight years and is working fairly well, will be extinguished with the stroke of a pen in Westminster and the use of the words, "Do not apply." It is extraordinary. It is something on which we are receiving legal advice and on which there will most definitely be litigation if it comes to pass.

Whatever your politics are on the section 35 case that is on-going, a process is being followed. Reasons have been given for using section 35 of the Scotland Act 1998, and a process is being followed, so we will see where that goes. However, when you think about functional Government and lawmaking—I am not interested in the politics—you realise that this is simply Westminster passing a piece of legislation that takes Holyrood legislation in a devolved area and snuffs it out with the stroke of a pen. I am not aware of that ever happening before. There is the constitutional angle, and it is legally complex. I do not know how you are supposed to do your job as lawmakers in Scotland when you know that that can happen.

In the inevitable legal challenges, the people who are sometimes forgotten—we will make sure that they are not forgotten—are the people who will lose out. In this case, the folk stripped of support will be female survivors of sexual exploitation in Scotland, often on an industrial scale, who are supported by amazing colleagues at TARA, and young lads who have been forced into cannabis cultivation, serving organised crime in your communities. They will effectively be thrown on the scrap heap and consigned to Rwanda or Albania. It is extraordinary.

**Pam Duncan-Glancy:** I am not even sure how to follow that—thank you. I thought that it was grim earlier. That was pretty concise.

We had a briefing earlier from a representative of the Children and Young People's Commissioner, who said that it is really important that we in Scotland do everything that we can in human rights terms. How important is it, given the Illegal Migration Bill and, I am sure, for other reasons, that the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill is brought back to this Parliament and enacted as soon as possible? I will ask Andy Sirel again, because he mentioned children's rights earlier.

**Andy Sirel:** I will be quick. I appreciate that it is a bit doom and gloom this morning, to put it mildly, but there are things within your competence that you can do. You can activate or reallocate funding streams to combat those things. We can be creative in how we provide support to victims of trafficking via other means. There are ways around the Illegal Migration Bill. We absolutely must not give up. We absolutely must think creatively and innovatively and try our very best to make things better.

The UNCRC is a very helpful instrument, if it comes to be incorporated. I encourage you all to move things along on that, because, once it comes into force, it will provide an extra layer of protection in devolved areas. It will not prevent a child from being removed to Albania or a young

person from being subject to the sharper parts of the Illegal Migration Bill. However, it can prevent things such as mandatory scientific age assessments. For those assessments, children are forcibly subjected to MRI scans to determine their age and, under the bill, if they refuse consent, they will be determined to be an adult. That provision in the bill will be spoken about next week.

There are UNCRC protections that can come into place and really bolster what we can do here. We can think creatively and use local authority resource and statutory duties to help families with children, in particular. There are ways around it, and the UNCRC is a really important one.

**Pam Duncan-Glancy:** I appreciate the slightly more optimistic outlook, if we can call it that. I am sure that colleagues round the table will do what we can to push that forward. Thank you again to the panel.

**The Convener:** I will bring in Rachael Hamilton, on the new Scots strategy.

**Rachael Hamilton:** Thank you, convener, and welcome to your role.

My first question is about what new issues need to be delivered in the new Scots strategy. I was slightly concerned when I heard, on “Good Morning Scotland” a couple of weeks ago, Olga Karpova say that she was asked to leave her flat. Her family had been settled through the supersponsor scheme. She was offered hotel accommodation in Dumfries and Galloway, but it meant that her family would have to start over again with work and education.

From your experience, what more could local authorities do, considering that the supersponsor scheme has been paused, particularly for those who are stuck in temporary accommodation or cannot imagine starting their life over again? After they have already flown a war-torn country, they are then having to start again in a new region of Scotland.

11:30

**Graham O’Neill:** Obviously, I cannot comment on the specifics of the case but, at the Scottish Refugee Council, we have been quite heavily involved in the Ukraine work that the Scottish Government has been taking forward, including the supersponsor strand of that.

It would be really good if much of the work that has been done in relation to Ukraine—the infrastructure, if you like—was applied to other protection populations. I am thinking of people from Afghanistan in the different accommodation, who are kind of forgotten in a lot of this, including very much here in Scotland, and people in the

asylum process, which is the population that we have mainly been talking about.

We are all international protection professionals. We all work with people who have needed protection, in this case from the United Kingdom, and who have come through different strands, be it relocation, in terms of the Afghan resettlement, other protection-based routes or asylum. As part of Scotland’s future in relation to the issue, we would like it to extend the approach in which it took on a bit more responsibility as a sub-state actor in Ukraine work.

We know that that experience has not been perfect—we touched on that with the earlier questions from you and Pam Gosal on housing. People from Ukraine have hit the same housing crisis that people in the asylum system, as well as people who are born and bred in Scotland, have hit around the provision of inappropriate accommodation. We touched on that in a previous evidence session a few months back, when you asked about housing. In that respect, we would like the learning and infrastructure to be applied to all protection populations in Scotland. That would really help.

**Rachael Hamilton:** Is the £1.6 million that has been allocated to the new Scots strategy enough to deal with some of the issues that you would like it to address?

**Graham O’Neill:** It is not enough, but we have to remember that the levers that are available to the Scottish Government are not as significant as those that are available to the UK Government. That is just a factual point, as opposed to a political point.

In the whole strand of what we have been talking about, asylum is one of those areas of reserved policy—as is social security—which is done to areas or done without adequate consultation with areas, in this case the devolved Government. We have an Illegal Migration Bill that is about to increase destitution and exploitation, including in Scotland. That will have profound consequences not only on people but in terms of budgets.

I can answer—respectfully and robustly, I hope—by saying that it is not enough, but I cannot just say that and not say what I have just said about the wider socioeconomic context for the Scottish Government, and I am talking about any Scottish Government of whatever party complexion.

I do not know whether that response helps because, as we said in our briefing for today’s meeting, the new Scottish refugee integration strategy and the ending destitution strategy will clearly not cut it when the Illegal Migration Bill arrives in town in mid-July. That will decimate

things like a meteorite. As Andy Sirel said, it will decimate vulnerable populations in a way that will leave them detained, destitute and exploited, or dying. The £1.6 million is not what we should be focusing on. We should be focusing on how policy and law are being generated across the UK. In this case, the Illegal Migration Bill is a case study in how not to do it, in the sense that it disrespects devolution and, much more importantly, it disrespects vulnerable people's human rights.

On Pam Duncan-Glancy's earlier question, in the past seven years, 93 per cent of the 2,000 trafficking survivors in Scotland who have been supported under our very powerful trafficking legislation were not from the UK. Those people will not get support after the bill. I am aware of the time constraints, convener, and I do not want to talk too much about this, but I just want to make the point that there are things that our Parliament has done that are being decimated by the current UK Government, namely the Human Trafficking and Exploitation (Scotland) Act 2015.

**Rachael Hamilton:** On the point about Ukrainian refugees, does JustRight get involved in some of those cases? Are cases such as that of Olga Karpova becoming more prevalent?

**Andy Sirel:** Yes, JustRight Scotland operates the Ukraine advice Scotland project. We are the Scottish Government-funded central advice agency for all Ukrainians in Scotland. It is not unusual to receive that type of query to our helplines and email advice line. Hotel accommodation is, I regret, becoming normalised, even in our discourse here today. That should not be normalised. It is not an appropriate environment for a Ukrainian family who have just fled Odesa or wherever. We are seeing systemic problems where people spend a long time in a certain area, such as Dumfries, for example, and then, to get them out of the hotel, there is not enough social housing or an available area where they can stay locally. You are right—that takes kids out of school, leads to problems with health, means that people have to reregister with a GP and leads to them losing their friend network and so on. That is a fairly commonplace issue around the country.

One of the challenges is that the private rental sector is not particularly accessible. We hear a lot from Ukrainian families that private landlords are demanding six months' rent up front. I do not know whether that is a common theme across the market or whether that is just those landlords seeing Ukrainian families and trying to make a buck. I could not afford six months' rent up front. You are right—it is a really challenging supply chain problem.

**Rachael Hamilton:** What would you like to happen to address that issue? Obviously, none of

you can do anything about the housing stock in Scotland, but would you like a relaunch of the supersponsor scheme for this group of people? Graham O'Neill has addressed other areas, but I am asking specifically about that.

**Andy Sirel:** The supersponsor scheme was an excellent initiative. We can reflect on it as, in some circumstances, a model for future resettlement programmes. It was a shame when it was paused. We deal an awful lot with family separation as a result of the supersponsor scheme: mum and dad got a visa and did not realise that they needed to apply for their kids, the scheme paused, and now they do not have a visa for their kids. The way in which the other schemes operate means that they cannot apply. We are having to make outside-the-rules applications and try to solve all sorts of problems. The supersponsor scheme was a good initiative, and it would be great if it were to be reopened. Obviously, the high numbers involved and the limited supply of housing and accommodation make for an intractable problem that is beyond my remit but, to answer your question, yes, I think that that would be positive.

**The Convener:** We will move on to Karen Adam.

**Karen Adam:** Thank you, convener, and congratulations on your new post.

I thank the witnesses for their evidence this morning. It has been incredibly hard but absolutely necessary to listen to, and I am glad that we have been given the opportunity to hear from you all. Anybody with a keen sense of justice would feel that the new bill is devoid of any form of human rights and is bringing none to the country. It is extremely concerning; in fact, I will go as far as to say that it is abhorrent.

I really feel for Pam Duncan-Glancy, agree with everything she said and share her anger. How can we now focus those energies in some kind of positive way, and what action do we need to take as legislators in the Scottish Parliament? What can we do? Andy Sirel, you touched on a few things. I want to use my question slot to give you all an opportunity to wrap up and say some final words about what you really want to get across today.

**Andy Sirel:** It is a good question. Thinking about solutions and what is possible is a good way of ending the session.

We hope for cross-party opposition to the bill. This is not politics but real life for your constituents. We hope to see a legislative consent motion being debated in the Parliament, on the basis that the bill is a clear encroachment on devolved issues that, ordinarily, would require some form of consent—I do not see how it could not. I expect the Scottish Government to seek

fairly urgent legal advice on the bill's constitutional challenges.

As for what you can do in your local authority areas and constituencies and with the levers of power that you as lawmakers have here, there are a few options. My colleagues will speak more eloquently than I can about them, but we need to think about funding alternative accommodation sites. Do you want detention facilities in your areas? Is that even remotely compatible with your humanity?

We would also advocate serious consideration of a devolved national referral mechanism for the identification of victims of trafficking. That is clearly within the gift of the Government and the Parliament in trying to get around the punishment of victims of trafficking. That is one of the root problems that we see here: if we punish victims, we increase exploitation and increase the supply for organised crime, and that will have ripple effects all across your communities with zero chance of prosecutions. If we are about law and order and those types of things, you need to give serious consideration to pulling that particular lever.

**Graham O'Neill:** Following on from what Andy Sirel has said, I will just say that we want the Parliament to reject the bill politically in its entirety. We also want it to refuse legislative consent to the clear intrusions into how trafficked and unaccompanied children respectively are dealt with; to take legal advice, as Andy has said; and—I hope—to be prepared to litigate those intrusions, if needed.

The Scottish Refugee Council's long-term position has been that we want a human rights-based identification and decision-making system for trafficking survivors to complete the end-to-end process in Scotland that was started with the 2015 act and continued through its support and assistance rights. That would give us an end-to-end anti-trafficking protection system, and it would be one of the best ways of maintaining compliance with article 4 of the European convention on human rights and article 12 of the European convention against trafficking. The former—the ECHR—is the most powerful, binding, hard-law legal instrument; clear anti-trafficking duties on states flow from article 4, on prohibition of slavery and trafficking, and one of those duties is to have a legal and administrative framework that survivors of the crime and human rights abuse of trafficking can access.

My question, which is partly rhetorical, is this: where is that legal and administrative framework for a person who has been trafficked into the UK, including Scotland, and who cannot, if the Illegal Migration Bill becomes an act, access their rights unless the Scottish Government and this

Parliament take the steps that are available to them? That is why I made my comment about bystanders in my opening remarks. The identification and decision-making system is something that you can address under section 9(8) of the 2015 act up here. It should be used—it should be seriously considered to maintain compliance with the European convention on human rights.

Similar steps need to be taken to protect unaccompanied children in our looked-after child system. They are not being spared under the Illegal Migration Bill. Some of you might have seen the briefing that we circulated yesterday morning to members for this meeting and for the debate this afternoon in the chamber. In it, we say that we need to institute a new and radical Scottish humanitarian strategy. That sounds like jargon, but it is not—it is much more serious than that. The Illegal Migration Bill is an anti-human-being bill. Unless something is done that is commensurate with the gravity of risk and harm that will stem from that UK bill, we will not be doing all that we can do at a policy level. I have articulated that in the briefing—please have a look at it.

The new Scots strategy, for example, is good, but it is not going to cut it when it comes to what we are talking about. I have mentioned seven national strategies that need to be knitted together around the two targets of the Illegal Migration Bill: refugees and trafficking survivors. The policy intervention needs to be an explicit and proud humanitarian-based strategy, and it should include serious consideration of the things that Andy Sirel mentioned around alternative accommodation.

What do we have to lose? We need to make sure that we protect people from exploitation, so we should be thinking about those things. The UK Government is not holding back, so the Scottish Government needs to do all that it can, backed up by this Parliament on a cross-party basis. As Andy Sirel has said, this is not about politics—it is about people. It is not about people in positions of privilege—it is about people in positions of extreme precarity. We really want serious rather than peripheral consideration to be given to a Scottish humanitarian strategy.

**Annika Joy:** I do not work for a policy organisation or an influencing organisation; what we do is grass-roots work on the ground with people who are in crisis every single day. My ask is that, if you are designing the humanitarian response and a new radical approach in Scotland, you go to places such as emergency support centres and small accommodation charities and talk to those working with people who are rough sleeping or are at risk of rough sleeping and to people who have survived the system—70 per cent of the people in my organisation have

survived the asylum system—about what would work. We need to get it off the paper and into the real lives of people in Scotland. That is the only way in which you will not see me here, time and time again, telling you the same stories.

**Phil Arnold:** We totally support what has been said. Picking up on Annika Joy's point, I would just say that it is so important to engage with people with lived experience right now. Relationships and trust are being undermined by the Illegal Migration Bill. Fundamentally, the route to any part of safety and protection starts with a trusting relationship, in which issues can be disclosed, and that is being fundamentally undermined. Indeed, we have already talked about those issues. Engagement with people with lived experience is therefore essential.

We support the humanitarian strategy. The ending destitution together strategy and the new Scots integration strategy are great, but they will not cut it, given what is coming. A wider protection base, which looks at a humanitarian strategy, is what is needed. Linked to that should be discussions from a legal perspective around what can be done. We do not want to undermine any protections that exist, but we really want to do everything possible, including thinking about a contingency planning exercise to understand the impacts if there were automatic and indefinite detention. What would that do for Scotland? What would happen if there were no effective national referral mechanism? What would the risks be for the population of Scotland? There needs to be some contingency planning to work through those scenarios in more depth.

**The Convener:** I thank all our panellists for their very powerful contributions. You have given us lots of food for thought at a very topical time with regard to asylum seeker and refugee status. Of course, there is also this afternoon's debate in the chamber, and I encourage everyone to tune in and watch that. You might even hear some of your contributions being amplified in that arena. Once again, I thank you all.

That concludes our formal business this morning. I thank everyone for their support at my first meeting as convener.

11:49

*Meeting continued in private until 12:12.*

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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